IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE G. BIKSHAPATHY
and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 996 of 2004

Between:
V. Surender S/o Sri Raghavulu
Dichipally, Nizamabad District

..... APPELLANT

AND

1 The Depot Manager, Andhra Pradesh State Road Transport Corporation, Nizamabad Depot, Nizamabad
2 The Divisional manager, Andhra Pradesh State Road Transport Corporation, Nizamabad
3 The Labour Court-II, Hyderabad

.....RESPONDENTS

Writ Appeal under Section 15 of Letters Patent Act against the order dated 24-03-2004 in W.P.No.27307 of 1998 on the file of the High Court.

For the Appellant:MR.P.GOVINDA RAJULU

For the Respondent No.: MR.K.HARINATH

The Court Made the Following :

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JUDGMENT: (per the Hon'ble Sri Justice G.Bikshapathy)

1. This Writ Appeal is filed by the appellant against the order of the learned single Judge in W.P.No.27307 of 1998 dated 24-03-2004 to the extent of modifying the award of the Labour Court, which granted 25% back wages.

2. The appellant was working as a cleaner. While so, disciplinary proceedings were initiated against him and ultimately he was removed from service on 24-04-1992 for his unauthorized absence from 27-03-1991 to 20-06-1991. Thereafter, he raised an Industrial Dispute in I.D.No.39 of 1994 before the Labour Court, Hyderabad. The Labour Court after considering the matter, held that the absence was for a justifiable cause and accordingly passed an award setting aside the order of removal and directing reinstatement of the appelant into service with 25% back wages. Against the said order, the management carried the matter in Writ Petition No.27307 of 1998 before this Court. The learned single Judge however confirmed the award passed by the Labour Court as far as the reinstatement of the appellant herein is concerned, but interefered with 25% back wages. Against the said order, the present Writ Appeal is filed by the appellant.

3. The learned Counsel for the appellant-employee submits that the order of the learned single Judge in interfering with the award of the Tribunal is erroneous and contrary to law. He further submits that the learned single Judge in his extraordinary jurisdiction ought not to interfere with the award passed by the Labour Court and as held by the decisions of the Supreme Court. Thus, the learned single Judge is

exceeded his jurisdiction by denying the back wages awarded.

4. On the other hand, the learned Standing Counsel appearing for A.P.S.R.T.C submits that the order of the learned single Judge is wholly legal and valid and the same is unassailable inasmuch as workman was found to be guilty of inaction and for such reason, the denial of back wages cannot be said to be illegal and contrary to law.

5. We heard the learned Counsel for parties at length.

6. It is not in dispute that the Labour Court has held that the charge of unauthorized absence of the employee was not sustainable and accordingly granted reinstatement with 25% back wages. The question that calls for consideration is whether the denial of 25% back wages by the learned Single Judge is justified under Article 226 of the Constitution of India.

7. It is not appropriate for the courts to interfere with the awards of the Labour Court, unless the awards are passed without jurisdiction. The learned single Judge holding that, as the appellant was absent from duty during the relevant period, denied granting 25% back wages. But, it is to be seen that before the Labour Court, the validity of the charge was the subject matter and the Labour Court has categorically found that the absence of the employee for the relevant period was due proper and justified cause and that it cannot be said that he committed any misconduct. Therefore, the entire misconduct was wiped out by the Labour Court. In such a situation, it would not be justified on the part of the Labour Court to award full back wages. Under those circumstances, we are of the considered view that the interference of the learned Single Judge with regard to 25% back wages was wholly unwarranted. Thus, we find that the order of the learned single Judge in modifying the award and denying 25% back wages is without any jurisdiction. Accordingly, we set aside the order of the learned single Judge and confirm the order of the Labour Court.

8. Accordingly, the writ appeal is allowed. No Costs.

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Date: 05-07-2004 G.BIKSHAPATHY, J.

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B.SESHASAYANA REDDY, J.

To

1 The Depot Manager, Andhra Pradesh State Road Transport Corporation, Nizamabad Depot, Nizamabad

2 The Divisional manager, Andhra Pradesh State Road Transport Corporation, Nizamabad

3 The Labour Court-II, Hyderabad

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